

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION

DR. ROBERT W. MALONE,

*Plaintiff,*

v.

PETER R. BREGGIN, MD, *et al.*,

*Defendants.*

CASE No. 3:22-cv-00063

ORDER

JUDGE NORMAN K. MOON

This matter is before the Court upon its own motion, and further to the Court's Show Cause Order issued on February 15, 2023. Dkt. 6. The Court issued the Show Cause Order because, notwithstanding notice letters from the Clerk, Plaintiff had not demonstrated that he served any defendant within ninety days, as Fed. R. Civ. P. 4(m) requires. The Court further wrote in its Show Cause Order that "Plaintiff's counsel is further **cautioned** that failure to timely respond to this Show Cause Order **will result in dismissal of this action for failure to prosecute.**" Dkt. 6 at 2.

Plaintiff timely responded to the Show Cause Order and requested thirty additional days to serve Defendants Peter R. Breggin, MD, Ginger Ross Breggin, and Dr. Jane Ruby. Dkt. 7. The Court granted Plaintiff's motion for an extension, affording Plaintiff until March 29, 2023, to serve these Defendants. Dkt. 9. However, in his motion for an extension, Plaintiff did not request additional time to serve the two remaining named Defendants, America Out Loud and Red Voice Media. Rather, Plaintiff stated that he "intends to dismiss his claims against America Out Loud and Red Voice Media pursuant to Rule 41(a)(1)(A)(i)." Dkt. 7 at 1 n.1. In view of that statement of intention, the Court directed Plaintiff to file a notice of voluntary dismissal as to

those Defendants no later than March 3, 2023. Dkt. 8. That deadline has come and gone, and Plaintiff has not filed such a notice of voluntary dismissal or any other submission.

Upon consideration of the relevant standard pursuant to Fourth Circuit precedent and pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, the Court hereby **ORDERS** that Defendants America Out Loud and Red Voice Media will be and hereby are **DISMISSED** from this action, and that such dismissal shall be *without prejudice*. See Fed. R. Civ. P. 41(a)(1)(A)(i); Fed R. Civ. P. 41(a)(2). The Clerk of Court is further directed to strike Defendants America Out Loud and Red Voice Media from the list of active Defendants in this action.

It is so **ORDERED**.

The Clerk of Court is directed to send this Order to the parties.

Entered this 7th day of March, 2023.

  
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NORMAN K. MOON  
SENIOR UNITED STATES DISTRICT JUDGE